



May 2006

## **Resident Tuition Eligibility of Washington Tribal Members**

The Higher Education Coordinating Board (HECB) has begun the process to implement a rules change in response to legislation enacted in the 2005 session. The board will be asked to approve draft language for the revised rules and a public hearing as outlined in the attached proposed rulemaking form (CR-102).

### **Overview**

Washington's public colleges and universities use a tiered tuition and fee structure in which nonresident students pay a premium to attend. State law (RCW 28B.15) directs the Higher Education Coordinating Board to establish rules to determine eligibility for resident status. The institutions implement the rules and determine the eligibility of individual students.

In most cases, the student or the student's family, if the student is a dependent, must have a bona fide domicile in Washington for at least one year prior to the academic year in which the student wishes to enroll. Native American students qualify for Washington resident tuition if they were a resident of Idaho, Montana, Oregon, or Washington during the prior year and if they are a member of certain American Indian tribes.

In 2005, the legislature and governor enacted ESHB 1607, which clarified the portion of the eligibility criteria dealing with tribal membership. The legislation struck a specific listing of tribes whose members would be eligible for resident tuition and fees and replaced it with a definition of eligible federally recognized tribes whose "traditional and customary tribal boundaries included portions of the state of Washington, or whose tribe was granted reserved lands within the state of Washington." The new language eliminates the need to revise the law every time a new tribe receives federal recognition.

### **Provisions of Revision**

The proposed rules change would instruct institutions to reference the official list of federally recognized Washington tribes, maintained by the governor's Office of Indian Affairs, to determine eligibility. This language would eliminate the need to list specific eligible tribes in the Washington Administrative Code. The list of federally recognized Washington tribes is available online at <http://www.goia.wa.gov/>.

A second provision, which would not change under the amended language, is a requirement that the students be domiciled in one or a combination of the following states: Idaho, Montana, Oregon, or Washington.

### **Next Steps**

- Upon the board's approval of the proposed draft language and hearing schedule, HECB staff will hold a public hearing on July 19, 2006, from 1 p.m. to 3 p.m., at the HECB office in Olympia.
- At the September 28, 2006 meeting, the board will be asked to approve the final language for the rules change.
- The revised rules will take effect in November 2006.

**RESOLUTION NO. 06-13**

WHEREAS, The Higher Education Coordinating Board is directed by RCW 28B.15.015 to adopt rules and regulations to be used by the state's public colleges and universities in determining a student's resident or nonresident status; and

WHEREAS, The legislature passed ESHB 1607, which became law on July 24, 2005; and

WHEREAS, The bill struck a specific listing of eligible federally recognized tribes and replaced it with a definition of an eligible tribe; and

WHEREAS, Residency rules regarding student classification (WAC 250-18-020) must reflect these changes;

THEREFORE, BE IT RESOLVED, That the Higher Education Coordinating Board approves the draft language in the proposed rules and the scheduled public hearing.

Adopted:

May 25, 2006

Attest:

\_\_\_\_\_  
Gene J. Colin, Chair

\_\_\_\_\_  
Jesus Hernandez, Secretary



# PROPOSED RULE MAKING

**CR-102 (June 2004)****(Implements RCW 34.05.320)**Do **NOT** use for expedited rule making**Agency:** Higher Education Coordinating Board

- ☒ **Preproposal Statement of Inquiry was filed as WSR 06-09-057** ; or  
☐ **Expedited Rule Making--Proposed notice was filed as WSR** ; or  
☐ **Proposal is exempt under RCW 34.05.310(4).**

- ☐ **Original Notice**  
☐ **Supplemental Notice to WSR** \_\_\_\_\_  
☐ **Continuance of WSR** \_\_\_\_\_

**Title of rule and other identifying information:** (Describe Subject) Residency Classification for Higher Education Student Classification. The proposed change would amend the rules pertaining to the eligibility for "resident" status for tuition and fee purposes at public institutions of higher education within Washington. Specifically, the amendment would strike language specifying federally recognized tribes whose members would qualify for resident tuition and instead refer institutions to the list of tribes maintained by the Governors Office on Indian Affairs to determine eligibility.

**Hearing location(s):** Higher Education Coordinating Board**Submit written comments to:**

Name: Randy Spaulding, Ph.D.

Address: 917 Lakeridge Way SW

Olympia, WA 98504

e-mail [randys@hecb.wa.gov](mailto:randys@hecb.wa.gov)

fax (360)753-7808 by (date) August 11, 2006

Date: July 19, 2006 Time: 1:00 to 3:00 p.m.

**Assistance for persons with disabilities:** Contact

Belma Villa by August 11, 2006

TTY ( ) or (360) 753-7810

**Date of intended adoption:** 9-28-06(Note: This is **NOT** the **effective** date)

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** ESHB 1607 changed the eligibility for "resident" status for tuition and fee purposes of tribal members. The legislation struck a specific listing of eligible tribes in statute and replacing it with a definition of eligible federally recognized tribes whose "traditional and customary tribal boundaries included portions of the state of Washington, or whose tribe was granted reserved lands within the state of Washington"

Rather than recreate a list of eligible tribes in the Washington Administrative Code that may become outdated requiring future code revisions, the proposed rule change would instruct institutions to reference the official list of federally recognized Washington tribes maintained by the Governor's Office of Indian Affairs to determine eligibility. The list of Federally recognized Washington tribes may be found online at <http://www.goia.wa.gov/>.

**Statutory authority for adoption:****Statute being implemented:****Is rule necessary because of a:**

Federal Law?

☐ Yes ☒ No

Federal Court Decision?

☐ Yes ☒ No

State Court Decision?

☐ Yes ☒ No

If yes, CITATION:

**DATE****NAME** (type or print)**SIGNATURE****TITLE****CODE REVISER USE ONLY**

(COMPLETE REVERSE SIDE)

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:**

N/A

**Name of proponent:** (person or organization) Higher Education Coordinating Board

- ☐ Private  
☐ Public  
☒ Governmental

**Name of agency personnel responsible for:**

Name	Office Location	Phone
Drafting..... Randy Spaulding	917 Lakeridge Way SW, Olympia, WA	(360) 753-7823
Implementation....Randy Spaulding	917 Lakeridge Way SW, Olympia, WA	(360) 753-7823
Enforcement.....Randy Spaulding	917 Lakeridge Way SW, Olympia, WA	(360) 753-7823

**Has a small business economic impact statement been prepared under chapter 19.85 RCW?**

☐ Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone ( ) \_\_\_\_\_

fax ( ) \_\_\_\_\_

e-mail \_\_\_\_\_

☒ No. Explain why no statement was prepared. The proposed rules change is a technical change required due to a change in the RCW and would apply to public higher education institutions in the determination of residence status of students.

**Is a cost-benefit analysis required under RCW 34.05.328?**

☐ Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

phone ( ) \_\_\_\_\_

fax ( ) \_\_\_\_\_

e-mail \_\_\_\_\_

☒ No: Please explain: The rules change removes the list of eligible tribes from the WAC and refers institutional staff to a list maintained by the governors office. No fiscal impact is anticipated.

**WAC 250-18-020 Student classification.** (1) For a student to be classified as a "resident" for tuition and fee purposes, he or she must prove by evidence of a sufficient quantity and quality to satisfy the institution that he or she:

(a)(i) Has established a bona fide domicile in the state of Washington primarily for purposes other than educational for the period of one year immediately prior to commencement of the first day of the semester or quarter for which he or she has registered at any institution; and

(ii) Is financially independent; or

(b) Is a dependent student, one or both of whose parents or legal guardians have maintained a bona fide domicile in the state of Washington for at least one year immediately prior to commencement of the semester or quarter for which the student has registered at any institution provided that any student who has spent at least seventy-five percent of both his or her junior and senior years in high school in this state, whose parents or legal guardians have been domiciled in the state for a period of at least one year within the five-year period before the student graduates from high school, and who has enrolled in a public institution of higher education within six months of leaving high school, shall be considered a resident only for as long as the student remains continuously enrolled for three quarters or two semesters in any calendar year; or

(c) Is a person who has completed the full senior year of high school and obtained a high school diploma - both at a Washington public or private high school approved under chapter 28A.195 RCW (or who has received the equivalent of a diploma). The person must have lived in Washington at least three years immediately prior to receiving the diploma (or its equivalent), and lived continuously in Washington state after receiving the diploma (or its equivalent) until the time of admittance to an institution of higher education (defined as a public university, college, or community college within the state of Washington). In addition, the person must provide an affidavit to the institution indicating that the individual will file an application to become a permanent resident at the earliest opportunity the individual is eligible to do so. Furthermore, the individual must indicate a willingness to engage in other activities necessary to acquire citizenship, including, but not limited to, citizenship or civics review courses; or

(d) Is a student who is on active military duty stationed in the state, or who is a member of the Washington national guard; or

(e) Is the spouse or dependent of an active duty military person stationed in the state of Washington; or

(f) Is a student who resides in Washington and is the spouse or dependent of a member of the Washington national guard; or

(g) Is a student of an out-of-state institution of higher education who is attending a Washington state institution of higher education pursuant to a home tuition program agreement under RCW 28B.15.725; or

(h) Is a student domiciled for one year in one or a combination of the following states: Idaho, Montana, Oregon, or Washington, and is a member of ~~((one of the following American Indian tribes:~~

- ~~(i) Colville Confederated Tribes;~~
- ~~(ii) Confederated Tribes of the Chehalis Reservation;~~
- ~~(iii) Hoh Indian Tribe;~~
- ~~(iv) Jamestown S'Klallam Tribe;~~
- ~~(v) Kalispel Tribe of Indians;~~
- ~~(vi) Lower Elwha Klallam Tribe;~~
- ~~(vii) Lummi Nation;~~
- ~~(viii) Makah Indian Tribe;~~
- ~~(ix) Muckleshoot Indian Tribe;~~
- ~~(x) Nisqually Indian Tribe;~~
- ~~(xi) Nooksack Indian Tribe;~~
- ~~(xii) Port Gamble S'Klallam Community;~~
- ~~(xiii) Puyallup Tribe of Indians;~~
- ~~(xiv) Quileute Tribe;~~
- ~~(xv) Quinault Indian Nation;~~
- ~~(xvi) Confederated Tribes of Salish Kootenai;~~
- ~~(xvii) Sauk Suiattle Indian Nation;~~
- ~~(xviii) Shoalwater Bay Indian Tribe;~~
- ~~(xix) Skokomish Indian Tribe;~~
- ~~(xx) Snoqualmie Tribe;~~
- ~~(xxi) Spokane Tribe of Indians;~~
- ~~(xxii) Squaxin Island Tribe;~~
- ~~(xxiii) Stillaguamish Tribe;~~
- ~~(xxiv) Suquamish Tribe of the Port Madison Reservation;~~
- ~~(xxv) Swinomish Indian Community;~~
- ~~(xxvi) Tulalip Tribes;~~
- ~~(xxvii) Upper Skagit Indian Tribe;~~
- ~~(xxviii) Yakama Indian Nation;~~
- ~~(xxix) Coeur d'Alene Tribe;~~
- ~~(xxx) Confederated Tribes of Umatilla Indian Reservation;~~
- ~~(xxxi) Confederated Tribes of Warm Springs;~~
- ~~(xxxii) Kootenai Tribe; and~~

~~(xxxiii) Nez Perce Tribe))~~ a federally recognized tribe whose traditional and customary tribal boundaries included portions of the state of Washington, or whose tribe was granted reserved lands within the state of Washington. The official list of federally recognized Washington tribes maintained by the governor's office of Indian affairs shall be used to determine eligibility.

(i) Is a student who is a resident of Oregon residing in Columbia, Gilliam, Hood River, Multnomah, Clatsop, Clackamas, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco, or Washington county. The student must meet the following conditions:

(i) Is eligible to pay resident tuition rates under Oregon laws and has been domiciled in one or more of the designated Oregon counties for at least ninety days immediately prior to enrollment at a community college located in the following Washington counties: Asotin, Benton, Clark, Columbia, Cowlitz, Franklin, Garfield, Klickitat, Pacific, Skamania, Wahkiakum, or Walla Walla; or

(ii) Is a student enrolled for eight credits or less at the Tri-Cities branch or Vancouver branch of Washington State University.

(2) A student shall be classified as a "nonresident" for tuition and fee purposes if he or she does not qualify as a resident student under the provisions of subsection (1) of this section. A nonresident student shall include a student if he or she:

(a) Will be financially dependent for the current year or was financially dependent for the calendar year prior to the year in which application is made and who does not have a parent or legally appointed guardian who has maintained a bona fide domicile in the state of Washington for one year immediately prior to the commencement of the semester or quarter for which the student has registered at an institution;

(b) Attends an institution with financial assistance provided by another state or governmental unit or agency thereof wherein residency in that state is a continuing qualification for such financial assistance, such nonresidency continuing for one year after the completion of the quarter or semester for which financial assistance is provided. Such financial assistance relates to that which is provided by another state, governmental unit or agency thereof for direct or indirect educational purposes and does not include retirements, pensions, or other noneducational related income. A student loan guaranteed by another state or governmental unit or agency thereof on the basis of eligibility as a resident of that state is included within the term "financial assistance;"

(c) Is not a citizen of the United States of America, unless such person holds permanent or temporary resident immigration status, "refugee - parolee," or "conditional entrant" status or is not otherwise permanently residing in the United States under color of law and further meets and complies with all applicable requirements of WAC 250-18-030 and 250-18-035.



(3) A person does not lose a domicile in the state of Washington by reason of residency in any state or country while a member of the civil or military service of this state or of the United States, nor while engaged in the navigation of the waters of this state or of the United States or of the high seas if that person returns to the state of Washington within one year of discharge from said service with the intent to be domiciled in the state of Washington.

(4) Any resident dependent student who remains in this state when such student's parents or legal guardians, having theretofore been domiciled in this state for a period of one year immediately prior to commencement of the first day of the semester or quarter for which the student has registered at any institution, move from this state, shall be entitled to continued classification as a resident student so long as such student is continuously enrolled during the academic year.